

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

LANCE HOWARD,)	
)	
Plaintiff,)	
)	
v.)	No. 1:17-cv-04043-TWP-TAB
)	
MILLER Sgt.,)	
CRAIG CANIFF,)	
)	
Defendants.)	

Entry Discussing Amended Complaint and Directing Further Proceedings

Plaintiff Lance Howard, an Indiana inmate, filed this action 42 U.S.C. § 1983. He alleged in his initial complaint that the defendants refuse to provide him his prescription eye glasses so that he can see. He has since filed an amended complaint and a motion to supplement.

Because the plaintiff is a “prisoner” as defined by 28 U.S.C. § 1915(h), this Court has an obligation under 28 U.S.C. § 1915A(b) to screen the amended complaint before service on the defendants. Pursuant to 28 U.S.C. § 1915A(b), the Court must dismiss the complaint if it is frivolous or malicious, fails to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief. In determining whether the complaint states a claim, the Court applies the same standard as when addressing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *See Lagerstrom v. Kingston*, 463 F.3d 621, 624 (7th Cir. 2006). To survive dismissal,

[the] complaint must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face. A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.

Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). Pro se complaints such as that filed by the plaintiff are construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers. *Obriecht v. Raemisch*, 517 F.3d 489, 491 n.2 (7th Cir. 2008).

The plaintiff brings this action pursuant to 42 U.S.C. § 1983 against defendants Sgt. Miller and Craig Caniff. He alleges that he is legally blind and the defendants refuse to provide him his prescription eye glasses so that he can see. Further, he alleges that Craig Caniff falsified records to make it appear that he received his eye glasses, but then told the plaintiff he will not be given them. The amended complaint contains these allegations as well as an allegation that Sgt. Miller has retaliated against him for filing a grievance based on these claims. The plaintiff seeks injunctive relief and monetary damages.

Based on the required screening, the plaintiff's claims **shall proceed** as a claim that Sgt. Miller and Craig Caniff have violated his Eighth Amendment rights and as a claim that Sgt. Miller has retaliated against him in violation of the First Amendment.

Consistent with this ruling, the motion to screen the amended complaint, dkt. [18], is **granted**. The motion to file a supplemental complaint, dkt. [17], is **granted** to the extent that that filing provides elaboration and clarification of the claims which are proceeding.

Defendant Sergeant Miller has already appeared in this action. He shall have **twenty-one days** to answer the amended complaint and the supplement. The **clerk is designated** pursuant to *Fed. R. Civ. P.* 4(c)(3) to issue process to defendant Caniff in the manner specified by Rule 4(d). Process shall consist of the amended complaint (docket 12), the supplemental complaint (dkt 17) applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Entry. **The Court notes that it has previously attempted without success to serve defendant Caniff. If Caniff is no longer employed at the New**

Castle Correctional Facility, counsel for Sergeant Miller is requested to submit Caniff's last known address so that he can be served. This filing may be made *ex parte*.

IT IS SO ORDERED.

Date: 3/1/2018

A handwritten signature in black ink, reading "Tanya Walton Pratt", is positioned above a horizontal line.

TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

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